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U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division



MAY 14 2003

ALL AGENCY MEMORANDUM NUMBER 196

To: All Contracting Agencies of the Federal Government and Contracting Agencies of the District of Columbia

FROM: Tammy D. McCotter
Administrator

SUBJECT: Service Contract Act Health and Welfare Fringe Benefit Changes

In accordance with the requirements of Section 4.52 of Regulations, 29 CFR Part 4, the prevailing health and welfare fringe benefits issued under the McNamara O'Hara Service Contract Act (SCA) will be increased on June 1, 2003. As prescribed by the Regulations the new benefit rate is derived from the latest Bureau of Labor Statistics Employment Cost Index (ECI) summary of **Employer Cost for Employee Compensation**. Effective June 1, 2003 the new SCA health and welfare benefit rate will be \$2.36 per hour or \$94.40 per week or \$409.07 per month.

Solicitation/Contracts Affected

All Invitation for Bids opened, or other service contracts awarded on or after June 1, 2003 must include an updated SCA wage determination (WD) issued in accordance with the regulatory health and welfare fringe benefit determination methodology. Contracting agencies may make pen and ink changes to their current WD if received for contracts beginning on or after June 1, and for which the updated health and welfare rates were not included. It is not required that contracting agencies request a revised WD for only a health and welfare rate change. Contracts with wage determinations currently requiring health and welfare benefits costing an average of \$2.56 per hour are not affected by this change.

Wage Determination for the State of Hawaii

Under Section 2(a)(2) of the Service Contract Act, fringe benefit payments that are required by state law may not be used to satisfy the employer's fringe benefit obligations. In Hawaii, most employers are required by law to provide health insurance coverage for their employees. Therefore, employer contributions that are made to satisfy the employer's obligations under the Hawaii mandated prepaid Health Care Act may not be credited toward meeting the contractor's obligations under SCA. The SCA WD's have addressed this issued in the past by excluding the health insurance portion. Currently, most Hawaii WD's specify a health and welfare benefit amount of \$.99 per hour.

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Consistent with past practices, and in recognition of the fact that Hawaii law requires employers to provide health care coverage for most employees, the SCA WD's for Hawaii will continue to exclude the health insurance portion of the benefits for all employees on whose behalf the employer provides benefits pursuant to the Health Care Act. However, all employers are not required to make and, in fact, do not make contributions for certain employees under the Hawaii law. If this is the case, then the reduced fringe benefits level is not appropriate for these employees.

Therefore, effective June 1, 2003 the new SCA health and welfare fringe benefits level for Hawaii will be \$1.01 per hour, or \$40.40 per week, or \$175.07 per month for all employees on whose behalf the contractor provides health care benefits pursuant to the Hawaii Health Care Act. For those employees who are not receiving health care benefits mandated by the Hawaii Health Care Act, the new health and welfare benefit rate will be \$2.36 per hour.